

Message Text

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ACTION EB-07

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SUBJECT: TEXTILES - AUSTRALIA PHILIPPINES DISPUTE

REF: GENEVA 8779

1. AS INDICATED PARA 4 REFTTEL, TRANSMITTED HERewith IS DRAFT (OPERATIVE PARAGRAPHS ONLY) "NEW APPROACH" TEXT FOR "FINDINGS AND RECOMMENDATIONS" SUBJECT CASE. QUOTE. (1) IN ITS FINAL APPROACH TO THE CASE, THE TSB TOOK THE VIEW THAT IT WOULD NOT BE CONSTRUCTIVE TO DISREGARD THE TOTALITY OF THE EVIDENCE IN ITS HANDS AND ADOPT TOO RIGID AN ATTITUDE TO THE DATES ON WHICH THAT EVIDENCE BECAME AVAILABLE EITHER TO THE TSB OR THE PARTIES CONCERNED. (2) THE EVIDENCE AVAILABLE RELEVANT TO THE SITUATION WHICH EXISTED PRIOR TO AUSTRALIA'S REQUEST FOR CONSULTATIONS WITH THE PHILIPPINES IN APRIL DOES NOT APPEAR TO DEMONSTRATE THE EXISTENCE OF SERIOUS DAMAGE TO DOMESTIC PRODUCERS OR ACTUAL THREAT THEREOF CAUSED BY IMPORTS OF ALL OF THE THREE CATEGORIES OF PRODUCTS COVERED BY AUSTRALIA'S

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ARTICLE 3 ACTION. WHILE THE EVIDENCE AVILABLE IN

NOVEMBER 1975, APPLICABLE TO IMPORTS OF KNITTED TOPS, DOES APPEAR TO SUSTAIN A CLAIM OF ACTUAL THREAT OF SERIOUS DAMAGE TO THE DOMESTIC INDUSTRY, THE EVIDENCE AS REGARDS DRESSES AND BLOUSES DOES NOT. (3) WHILE EVIDENCE NOT AVAILABLE UNTIL NOVEMBER HAS SHOWN THAT DEVELOPMENTS SUBSEQUENT TO THE ORIGINAL CONSULTATIONS APPEAR TO VALIDATE THE PRESUMPTION, AT THE TIME OF THE CONSULTATIONS, OF AN ACTUAL THREAT OF SERIOUS DAMAGE ARISING FROM IMPORTS OF KNITTED TOPS, THE LATER EVIDENCE IS STILL INSUFFICIENT TO SUBSTANTIATE FULLY THE EXISTENCE OF SERIOUS DAMAGE OR ACTUAL THREAT THEREOF ARISING FROM IMPORTS OF DRESSES AND BLOUSES FROM THE PHILIPPINES. (4) WHILE RECOGNIZING THAT SMALL QUANTITIES OF IMPORTS, IN SOME CIRCUMSTANCES, CAN CAUSE OR ACTUALLY THREATEN SERIOUS DAMAGE, THE EVIDENCE FOR THE RELEVANT PERIOD DOES NOT APPEAR TO DEMONSTRATE THAT THE QUANTITATIVE INCREASE IN IMPORTS OF DRESSES AND BLOUSES FROM THE PHILIPPINES HAD REACHED A LEVEL WHICH CAUSED OR THREATENED SERIOUS DAMAGE. (5) THE TSB TOOK NOTE OF THE FACT THAT DURING THE TWELVE-MONTH PERIOD PRECEDING THE INTRODUCTION OF RESTRICTIONS ON IMPORTS FROM THE PHILIPPINES IN JULY, AUSTRALIA HAD CONCLUDED AGREEMENTS UNDER ARTICLE 3 WITH SEVERAL OTHER EXPORTING COUNTRIES TO LIMIT THEIR EXPORTS OF SUCH PRODUCTS TO AUSTRALIA. (6) WHILE NOT WHOLLY ACCEPTING THE INTERPRETATION PUT ON ARTICLE 6 BY THE PHILIPPINES IN THE COURSE OF THE CONSULTATIONS AND NEGOTIATIONS, THERE WAS NO EVIDENCE THAT AUSTRALIA IN THE ORIGINAL CONSULTATIONS, IN THE DECISION TO IMPOSE THE RESTRICTIONS OR IN THE SECOND ROUND OF CONSULTATIONS UNDERTAKEN IN OCTOBER AT THE REQUEST OF THE TSB, TOOK THE PROVISIONS OF ARTICLE 6 FULLY INTO ACCOUNT. THE TSB IS OF THE VIEW THAT, IF THE PURPOSES OF ARTICLE 6 ARE TO BE SERVED, CARE MUST BE TAKEN BY BOTH PARTICIPATING IMPORTING AND EXPORTING COUNTRIES TO AVOID EXTREME INTERPRETATIONS OF THE PROVISIONS OF THE ARTICLE. (7) THE TSB BELIEVED THAT THE POSSIBILITY STILL EXISTED FOR FURTHER USEFUL NEGOTIATIONS BETWEEN THE PARTIES CONCERNED AIMED AT REACHING A SOLUTION THAT WOULD BE CONSISTENT WITH THE ARRANGEMENT. THE TSB RECOMMENDED THAT, IN VIEW OF THE FACT ITS FINAL FINDINGS WERE BASED ON THE TOTALITY OF THE EVIDENCE AVAILABLE

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ABLE IN NOVEMBER 1975, THE PARTIES CONCERNED SHOULD LIKEWISE TAKE DUE REGARD OF THIS EVIDENCE IN ANY FUTURE NEGOTIATIONS. (8) THE TSB RECOMMENDED THAT THE PARTICIPATING COUNTRIES CONCERNED SHOULD REVIEW THE MEASURES TAKEN AS REQUIRED BY ARTICLE 3:5(III) IN THE LIGHT OF ABOVE FINDINGS. UNQUOTE.DALE

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